

IN THE SENATE

SENATE BILL NO. 1020

BY SCHROEDER

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1304, IDAHO CODE, TO PROHIBIT CERTAIN PERSONS FROM PURCHASING UNLAWFULLY TAKEN WILDLIFE OR ANY PORTION THEREOF SUBJECT TO SALE BY THE DIRECTOR OF THE DEPARTMENT OF FISH AND GAME.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 36-1304, Idaho Code, be, and the same is hereby amended to read as follows:

36-1304. SEIZURE OF EQUIPMENT AND WILDLIFE. (a) Seizure of Evidence – Confiscation of Unlawfully Used Equipment. The director and all other officers empowered to enforce fish and game laws are hereby authorized at any time to seize and hold as evidence any powder, explosives, lime, toxicants, drugs, spears, traps, snares, guns, tackle, nets, seines or any other hunting, trapping or fishing equipment or devices used in the commission of a violation of any provisions of this title or rules or proclamations promulgated pursuant thereto, provided that all lawful traps, guns, spears, tackle, nets and seines taken from the possession of any person arrested for a violation of this title and held as evidence in any prosecution resulting from such arrest shall not be subject to confiscation but the same shall be returned to the person from whom taken when no longer needed as evidence. Provided, however, if it appears from the evidence before the magistrate hearing the case that the powder, explosive, lime, toxicants, drugs, or other unlawful means and devices were used or were about to be used for the unlawful taking or killing of wildlife, said magistrate shall order the same confiscated and sold by the director at public sale, the proceeds therefrom turned into the fish and game account. Any guns, fishing tackle, nets, traps or other equipment used in the taking of wildlife unlawfully and for which no lawful owner can be determined or any such equipment seized as evidence in a case and for which an owner is known, if not claimed within six (6) months following the final disposition of the case in question, shall be deemed to be the property of the fish and game department; provided, that this shall not occur unless written notice is given to the lawful owner, when known, by registered mail to his last known address within thirty (30) days after the final disposition of the case. Equipment so obtained may be sold by the department unless it would be unlawful for the general public to own or possess such equipment. Any proceeds from the sale of such equipment that would be lawful for the general public to own or possess, shall be deposited in the fish and game account.

(b) Unlawfully Taken Wildlife – Seizure, Confiscation, Disposition. The director or any other officer empowered to enforce the fish and game laws may at any time seize and take into his custody any wildlife or any portion thereof which may have been taken unlawfully, or which may be unlawfully in the possession of any person. If it appears from the evidence before the magistrate hearing the case that said wildlife was unlawfully taken, the magistrate shall:

1           1. Order the same confiscated or sold by the director and the proceeds deposited in the  
2           fish and game account; or

3           2. In his discretion, order such confiscated wildlife given to a designated tax-supported,  
4           nonprofit or charitable institution or indigent person.

5           Any person having unlawfully taken wildlife that is the subject of a sale by the director shall  
6           be prohibited from purchasing the unlawfully taken wildlife or any portion thereof. Provided  
7           further, no person shall knowingly purchase unlawfully taken wildlife or any portion thereof on  
8           behalf of any person who has unlawfully taken the wildlife that is the subject of the sale.

9           (c) Unclaimed Wildlife – Seizure, Disposition. All carcasses, hides, pelts or portions  
10          of any wildlife protected by the provisions of this title which are deemed to be unclaimed or  
11          abandoned may be seized by the director or any other officer empowered to enforce game laws  
12          and, upon being so seized, the director shall:

13          1. Sell same at public or private sale and deposit the proceeds therefrom in the fish and  
14          game account.

15          2. In his discretion, order such wildlife to be given to a designated tax-supported  
16          nonprofit or charitable institution or indigent person.

17          (d) Receipt Required. A written receipt must be executed for all equipment or wildlife  
18          disposed of in accordance with the provisions of this section.